

OFFICE OF THE MISSISSIPPI SECRETARY OF STATE  
BUSINESS REGULATION AND ENFORCEMENT

JUN 11 2001

ERIC CLARK  
SECRETARY  
OF STATE

IN THE MATTER OF:	)	ADMINISTRATIVE
MINNESOTA MUTUAL LIFE	)	PROCEEDING NUMBER: 99-068
INSURANCE COMPANY and	)	
ASCEND FINANCIAL SERVICES	)	

CONSENT ORDER

**I. Jurisdiction**

Finding it appropriate in the public interest, the Business Regulation and Enforcement Division of the Office of the Secretary of State of Mississippi (hereafter "Division"), on behalf of the Secretary of State, having the power to administer and to provide for the Mississippi Securities Act, Miss. Code Ann. §§75-71-101 to 75-71-735 (Rev. 2000) (hereafter "Act"), and Respondents do hereby enter into this Consent Order (hereafter "Order"). This Order settles all of the Division's allegations of violations of the Act by the Respondents in its investigation of the Respondents' broker-dealer agent and registered representative C. Douglas Gulley, Jr.

**II. Agreement**

In consideration of a final resolution of the matters set forth in Paragraph I, and of other considerations set out hereinafter, the Division and Respondents hereby agree, stipulate and undertake as follows:

1. Respondents admit the jurisdiction of the Division as to all parties and matters herein under the authority of the Act.
2. Ascend Financial Services, Inc. hereinafter referred to as Ascend, a broker-dealer and investment advisor registered with the Mississippi Secretary of State's Business Regulation and Enforcement Division is a wholly owned

subsidiary of Advantus Capital Management, Inc., itself an investment advisor and a wholly owned subsidiary of Minnesota Life Insurance Company, hereinafter referred to as Minnesota Life. Ascend, formerly MIMLIC Sales Corporation, has been a registered broker-dealer pursuant to the Act ("Act") since December 14, 1985.

3. C. Douglas Gulley, Jr. was at all material times herein a broker-dealer agent and investment advisor representative of Minnesota Life and Ascend.
4. Respondents hereby admit to the following violations of the Act and the Rules promulgated thereunder:

A. Ascend and Minnesota Life, in violation of Section 75-71-321(b)(2)(A), NASD Rule 3010, and Mississippi Securities Act Rule 523(A)(23), failed reasonably to supervise its agent in that there was no adequate supervisory review of C. Douglas Gulley, Jr. for the period from 1989 through 1998.

B. Ascend and Minnesota Life in violation of Section 75-71-321(b)(2)(A), NASD Rule 3010, Mississippi Securities Act Rule 523(A)(23) and Mississippi Securities Act Rule 521 failed to reasonably supervise C. Douglas Gulley, Jr. in that they failed to establish or implement adequate supervisory procedures and such failure allowed C. Douglas Gulley, Jr. to violate numerous laws and rules and commit fraud and embezzlement of approximately 3.5 million dollars over a period of at least nine (9) years without detection.

5. Respondents will remit upon execution of this Consent Order an administrative penalty to the Secretary of State in the amount of fifty thousand dollars (\$50,000).
6. Respondent Minnesota Life also agrees to remit to the Secretary of State three hundred and fifty thousand dollars (\$350,000) said sum being a contribution into the Securities Enforcement Act and Regulation of Charitable Solicitations Act

Fund (SOS Fund Code 3114) and one hundred thousand dollars (\$100,000) as reimbursement for costs and expenses incurred by the Secretary of State in the investigation of the Respondents and their agent and representative C. Douglas Gulley, Jr.

7. Respondent Minnesota Life agrees to pay the sum of Fifty Thousand Dollars (\$50,000) to the firm of Pittman, Germany, Roberts and Welsh in compensation for fees, costs and expenses incurred in the firm's representation of the Secretary of State in this matter.
8. Respondents agree to provide a letter to the Secretary of State within thirty (30) days from execution of the Consent Order describing in detail changes in Minnesota Life and Ascend's compliance practices designed to detect and prevent agent and/or representative fraud since March 1998.
9. As a result of this Order, the Secretary of State agrees not to pursue any further actions against Minnesota Life and Ascend, their affiliates, subsidiaries, officers, employees, directors, representatives or agents (except Gulley) for the actions of C. Douglas Gulley, Jr.
10. Respondents recognize, acknowledge, and stipulate that a willful failure to comply with any of the terms, conditions or obligations of this Order may result in Respondents being deemed to be in violation of a lawful order made pursuant to Section 75-71-109 of the Act and, therefore, subject to the penalties of Section 75-71-735 of the Act. Nothing contained herein shall be construed as limiting Respondents' right to contest any finding or determination made by the

Division or by a court concerning an alleged failure by Respondents to comply with any of the terms and provisions of this Order.

11. Respondents are aware of their right to a hearing on this matter at which they may be represented by counsel, present evidence and cross-examine witnesses. Respondents hereby irrevocably waive the right to such a hearing.
12. Respondents understand that the entry of this Order represents the settlement of regulatory claims by the Division against the Respondents only and does not, in any way, restrict or affect the rights or causes of action, if any, of any Mississippi residents who have sustained losses as a result of their investments with Respondents.

### **III. Other Considerations**

In the event Respondents fail to comply with any of the agreements, stipulations or undertakings set forth in Paragraph II, Respondents shall thereby knowingly and voluntarily waive any right to notice and to an administrative hearing and also waive any right to separately stated findings of fact and conclusions of law to which they may have otherwise had a right regarding the matters contained in Paragraph I. An Order of Revocation of Registration and an Order Imposing Administrative Penalty will automatically become final and enforceable against them with respect to such matters.

### **IV. Acknowledgement**

The parties acknowledge that they have read this Order in its entirety and fully understand the rights, terms and obligations of each contained therein and they have been vested with the express authority to enter into this agreement. The parties further

acknowledge that they have not been threatened or otherwise coerced into entering into this Consent Order.

The undersigned hereby acknowledge and agree to the terms and conditions of the foregoing Order by written consent.

MINNESOTA MUTUAL LIFE INSURANCE COMPANY

BY: *Kevin E. Berlofky*  
Title: Executive Vice-President  
Date: 5/16/01

**STATE OF MISSISSIPPI**  
I hereby certify that this is a true and complete copy of the 5 page document on file in this office.  
DATED 9/30/2009  
BY: *C. Dillat Neumann, Jr.*  
This Certification Stamp Replaces Our Previous Certification System.

ASCEND FINANCIAL SERVICES

BY: *Robert S. O'Leary*  
Title: Director  
Date: 5/16/01

**STATE OF MISSISSIPPI**  
I hereby certify that this is a true and complete copy of the 5 page document on file in this office.  
DATED March 30th, 2004  
BY: *Eric Clark*  
*Kendra Murray*  
This Certification Stamp Replaces Our Previous Certification System.

ERIC CLARK in his Official Capacity as Secretary of State

BY: *William E. Chapman, III*  
William E. Chapman, III  
Assistant Secretary of State  
Business Regulation and Enforcement

Date: 5/8/01

**STATE OF MISSISSIPPI**  
I hereby certify that this is a true and complete copy of the 5 page document on file in this office.  
DATED 6/11, 2001  
BY: *Eric Clark*  
*Leon Chambers*  
This Certification Stamp Replaces Our Previous Certification System.